

Notice of Allowability

Application No.

09/808,388

Examiner

Gerald G Leffers Jr., PhD

Applicant(s)

MASSAAD ET AL.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/20/2004.
2. ☒ The allowed claim(s) is/are 26-29, 31 and 35-54.
3. ☒ The drawings filed on 19 May 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


GERY LEFFERS
PRIMARY EXAMINER

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EXAMINER'S AMENDMENT

Receipt is acknowledged of an amendment, filed 7/20/2004, in which claims were amended (claims 26, 28-29, 36-38) and in which new claims were added (claims 53-54). As of this amendment, claims 26-29, 31 & 35-54 are pending in this application.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Phillip DuBois on 9/15/2004.

The application has been amended as follows:

In the claims:

26. (currently amended) A hybrid promoter comprising:

a) a peroxisome proliferator activated receptor response element (PPAR response element) comprising at least one PPAR-binding site; and

b) a promoter of a IIA-1 nonpancreatic secreted phospholipase A2 (PLA2s) gene [of comprising SEQ ID NO: 5 or comprising a sequence a PLA2s gene comprising at least residues 51 to 61, 23 to 32, 148 to 155, 5 to 170 or 51 to 170 of SEQ ID NO: 5].

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27. (currently amended) The hybrid promoter according to Claim 26, wherein the PPAR response element has repetition of the same PPAR-binding site or a combination of different PPAR-binding sites.

In claim 28, line 4, the period in the phrase "SEQ ID NO. 1" has been deleted and a colon, --:-- has been inserted in its place.

Claim 29. (currently amended) The hybrid promoter according to Claim 26, wherein the PPAR response element comprises the nucleic acid sequence of one of SEQ ID NOS: [.] 1, 2, 3 or 4.

Claim 31. (currently amended) The hybrid promoter according to Claim 26, wherein said [functional part of the] promoter of a PLA2s [promoter] gene is induced by interleukin-1B.

In claim 35, line 5, the period in the phrase "SEQ ID NO. 5" has been deleted and a colon, --:-- has been inserted in its place.

Claim 39. (currently amended) An isolated nucleic acid comprising [the] a nucleic acid sequence selected from the group consisting of SEQ ID NOS: [.] 1, 2, 3, 4 and 5.

In claim 40, line 3, the word "product" has been deleted and the term

--polypeptide-- has been inserted in its place.

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Claim 53, (currently amended) A hybrid promoter comprising:

a) a peroxisome proliferator activated receptor response element (PPAR response element) selected from the group consisting of SEQ ID NO: 1, SEQ ID NO: 2, SEQ ID NO: 3 and SEQ ID NO: 4 linked to

b) a promoter of a IIA-1 nonpancreatic secreted phospholipase (PLA2s) gene comprising SEQ ID NO: 5 or comprising a sequence of said PLA2s gene comprising at least residues 51 to 61, 23 to 32, 148 to 155, 5 to 170 or 51 to 170 of SEQ ID NO: 5.

In claim 54, at lines 5 & 7, the period in the term "SEQ ID NO. 5" has been deleted and replaced with a colon, --:--.

In the specification:

At page 23, line 15, the phrase "LEGEND TO THE FIGURES" has been deleted and the phrase, --Brief Description of the Figures-- has been inserted in its place.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: applicants' amendment of the claims to explicitly indicate that the hybrid promoter comprises SEQ ID NO: 5 or the specifically recited residues within SEQ ID NO: 5 has obviated the outstanding grounds of rejection over the prior art.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 26-29, 31, 35-54 are allowed (now claims 1-25).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald G Leffers Jr., PhD whose telephone number is (571) 272-0772. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gerald G Leffers Jr., PhD
Primary Examiner
Art Unit 1636


GERRY LEFFERS
PRIMARY EXAMINER

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